

Real Estate Investment Trusts –
Excise Tax Computation

Franchise and Excise
taxes notice
#06-07

Public Chapter 1019 (2006)

Effective July 1, 2006, Public Chapter 1019 amends Tenn. Code Ann. Section 67-4-2006 concerning Real Estate Investment Trusts and the excise tax computation.

Under prior law, a person or taxpayer who was treated as a partnership for federal tax purposes and who was owned, directly or indirectly, by a real estate investment trust (REIT) was allowed a deduction from the excise tax base for any income or loss that was included in the federal taxable income of such REIT that was itself subject to tax and filing a return. This Public Chapter narrows the deduction to only those taxpayers that are wholly-owned directly or indirectly by a Public REIT and distribute their net earnings or net losses to a Public REIT.

A Public REIT is defined under Tenn. Code Ann. Section 67-4-2004 as an entity that: 1) has an election under Section 856(c)(1) of the Internal Revenue Code, 2) files with the Securities and Exchange Commission, and 3) whose shares are traded on a national stock exchange.

A 100% deduction is available for any person or taxpayer who: 1) is treated as a partnership for federal tax purposes, and 2) all of its income or loss is included in the federal taxable income of a Public REIT.

A deduction is also available for any person or taxpayer who: 1) is treated as a partnership for federal tax purposes, and 2) a portion of its income or loss is included in the federal taxable income of a Public REIT. The allowable deduction is an amount equal to the net earnings or net losses distributed to a Public REIT. The taxpayer must include in its return a schedule identifying the name and federal identification number of the Public REIT who received the distribution.

The effective date of these provisions is July 1, 2006; therefore, any return covering a period ending on or after July 1, 2006, is subject to these provisions.

Taxpayers should increase their estimated franchise, excise tax payments due after July 1, 2006, in relation to the expected increase in tax.

If you have any questions about this notice, you may contact the department. Tennessee residents outside the Nashville calling area may call our statewide toll-free number at (800) 397-8395. Callers from Nashville or out-of-state may dial (615) 253-0700. You can access additional information on our Web site at www.Tennessee.gov/revenue.

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